IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8285 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DECEASED ISHWARDAS JIVANBHAI BHATT THROUGH HIS HEIRS

Versus

MAGANLAL CHANABHAI PATEL

Appearance:

1. Special Civil Application No. 8285 of 1991

MR RN SHAH for Petitioner No. 1-1/6

MR AJ PATEL for Respondent No. 1

RULE SERVED for Respondent No. 2-3

Mr.Desai, APG for Respondent No. 4

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 01/05/2003

ORAL JUDGEMENT

This petition is preferred by the petitioners challenging the order passed by the Addl.Chief Secretary, Revenue Dept, dated 6.7.91 whereby the revision of the petitioners is dismissed.

2. The short facts appear to be that it is the case of the petitioners that the land of Brahmin Falia bearing City Survey Nos.6, 7 & 8 were belonging to the petitioners and the lands were in the name of the petitioners since about 30 years. However, the case of the petitioners is that the petitioners had given the land to the respondents who were yajman and since the respondent No.1 was poor for the purpose of construction of house the land was given on condition to return the same as and when his condition is improved, but when the city survey inquiry was made in the inquiry report the land is recorded in the name of respondents and it is the case of the petitioners that no notice was given to them and when it came to the knowledge of the petitioners, they preferred appeal being Appeal No.1/86 before the Dy.Collector, Navsari. In the said appeal the Dy.Collector Navsari found that there is no sufficient evidence is produced by the appellants who are the petitioners herein and he further found that the inquiry officer had examined all the relevant aspects after issuing notice and therefore it can not be believed that the petitioners were not aware about the same. Further, the Dy.Collector found that the land given to the respondents is as per Vada Sanhitan Rules, 1968 and the same is allotted after recovering the price for possession and therefore the contention of the petitioners that the land was given for the purpose of construction can not be accepted and therefore ultimately he dismissed the appeal as per decision dated 30.6.86.

3. It appears that the petitioners herein carried the matter before the Collector, Valsad against the said decision of the Dy.Collector and the Collector also found that there is no sufficient evidence produced to show any infirmity in the order passed by the Dy.Collector and hence the revision was dismissed.

4. The petitioners further carried the matter before the State Govt by preferring second revision and the said revision came to be heard by the Addl.Principal Secretary, Revenue Dept (Appeals). It was also found by the Addl.Principal Secretary of the State Govt that as per Vada Sanhitan Rules the land is given and at the time when the inquiry for record of rights was made after recovering the amount the land is mutated in the name of respondents and therefore the said revision was

dismissed. Under these circumstances the present petition.

5. I have heard Mr.R.N.Shah for the petitioners and Ms.Shital Patel for Mr.A.J.Patel and Mr.Desai, Ld.AGP for respective respondents.

6. It appears that there is a concurrent finding of fact by all the lower authorities that the petitioners had not produced sufficient material and evidence to show their ownership. There is also further concurrent finding of fact by all the lower authorities that when the city survey inquiry was made proper notices were given and not only that but after recovering necessary amount as per Vada Sanhitan Rules the area of the land was mutated in the name of respondents. In my view as per settled legal position, this court while exercising power under Article 227 of the Constitution of India shall not normally reappreciate the evidence and shall not normally disturb the concurrent findings of fact unless it is demonstrated that such finding is exfacie perverse to the record or there is glaring error which has resulted into great injustice to parties. Neither of such situation is demonstrated by the petitioners in the present petition. Moreover, all the authorities have found that after recovering the necessary amount as per Vada Sanhitan Rules, 1968 the land is mutated in the name of respondents. Hence, I find that no case is made out for interference by this court with the orders passed by the lower authorities.

7. In view of the aforesaid discussion, petition fails and hence same is dismissed. Rule is discharged. There shall be no order as to costs.

1.5.03 (JAYANT PATEL,J)